

Lowell N. Hawkes (ISB #1852)
LOWELL N. HAWKES, CHARTERED
1322 East Center
Pocatello, Idaho 83201
Telephone: (208) 235-1600
FAX: (208) 235-4200
Attorney for Darren Kuhn

**IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF IDAHO
THE HONORABLE JIM D. PAPPAS**

In Re:

JOHN L. MERZLOCK,

Debtor.

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)
)
)
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)
)
)
)

Case No. 03-41775 JDP

**WITNESS AND EXHIBIT LIST
OF DAREN KUHN**

DAREN KUHN, a judgment creditor, through the undersigned counsel pursuant to the Court's order of October 21, 2003 submits the following Witness and Exhibits list:

Witnesses: This Judgment Creditor adopts and incorporates by reference disclosure of all witnesses named by the Trustee and Citizens Community Bank and the following:

- Bron M. Rammell
- Norman G. Reece

34

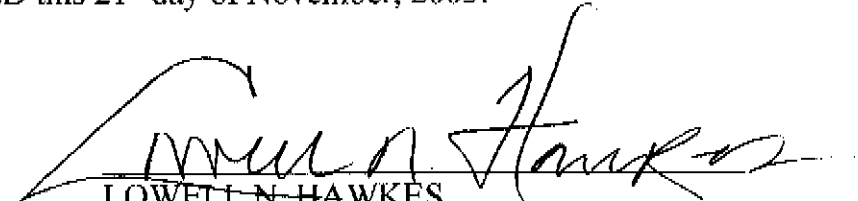
Exhibits: This Judgment Creditor adopts and incorporates by reference all exhibits listed by the Trustee and Citizens Community Bank and the following:

- Financial documents from January 2003 civil trial, Exhibit 65 and the documents disclosure incidental thereto, copies of which are attached consisting of the following:

- Individual or Partnership Statement at close of business 1/15/03
- Schedule 1 Notes and Contracts Receivable to Individual or Partnership Statement
- Profit/Loss 2001
- Profit/Loss 2002
- Profit/Loss 2002 corrected
- Notes on Appraisal Income
- 1997 Appraisal Income summary
- 1998 Appraisal Income summary
- 1999 Appraisal Income summary
- 2002 Appraisal Income summary
- IRS Notice dated Oct 29, 2001
- Continental Broker-Dealer Corp. (Boca Raton, FL) Securities Account
- Continental Broker-Dealer Corp. (Boca Raton, FL) Account Summary
- BNY Clearing Services LLC (Milwaukee, WI) 2001 Tax Reporting Statement
- Emmett A. Larkin Company, Inc.(San Francisco, CA) Statement 12- 2001
- Form 4868 Application for Automatic Extension & personal check # 3693
- 1998 Form 1099-Misc from Coldwell Banker Landmark
- 1997 Form 1099-Misc from Coldwell Banker Landmark

- Partial transcript of civil pretrial deposition of Debtor Merzlock, pages 6-13 & 94-97(December 12, 2002), a copy of which is attached.

DATED this 21st day of November, 2003.


LOWELL N. HAWKES

Please answer all questions
and fill in all blanks.

INDIVIDUAL OR PARTNERSHIP
STATEMENT

Name: JOHN KARMA MEZLOPER Address: 13748 N. MANNING LN, ROCKFORD, IL 61102
 Date: 8/27/44 Occupation: RE APPRAISER / BROKER Phone Number: _____
 Tax ID Number 59-52-7043 To The BANK OF COMMERCE Branch _____

For the purpose of obtaining credit with you from time to time, I/we herewith submit the following as being fair and accurate statement of my/our financial condition at the close of business on the 1/15/2003 day of _____

ASSETS (List of what you own)		LIABILITIES (List of what you owe)	
Cash on Hand and in The Bank of Commerce	5800	Notes Payable to This Bank	
Balances in Other Banks (401K) JOHNSON FINANCIAL	3500	Notes Payable to Others - Describe	
Time Deposits & Savings in The Bank of Commerce		CITIZENS BANK	12,500
Time Deposits & Savings in Other Banks		PES (49,500) (13)	16,500
Notes Receivable (Due 1 Year - Schedule 1)		Trade Accounts Payable	
Trade Accounts Receivable (APPRAISALS)	13,700	OFFICE EXPENSES (DUES ETC)	1150
Other Accounts Receivable - Describe		Other Accounts Payable - Describe	
Merchandise Inventory		Accrued Expenses	2150
Cash Value Life Insurance		Taxes Due APPX	30,000
Listed Securities		UNPAID PROPERTY TAXES	8400
		Unpaid Interest	
		Contracts Payable (Due 1 Year - Schedule 2)	
Other Current Assets - Describe		Other Current Liabilities - Describe	
KELLER WILLIAMS R.E. (13)	35,000		
HOUSEHOLD FURNITURE 13SETS	6000		
TOTAL CURRENT ASSETS		TOTAL CURRENT LIABILITIES	
Real Estate (Schedule 3)	320,150	Mortgages (Schedule 3)	211,060
Office Furniture and Equipment (113)	5000	Contracts Payable (Over 1 Year - Schedule 2)	
Investments - Describe		Other Liabilities - Describe	
Notes Receivable (Over 1 Year - Schedule 1)			
Automobiles and Trucks 1999 CHRYSLER CONCORDE	9500		
2000 FORD WINDSTAR VAN	10,500		
1994 HONDA ACCORD	5000		
Personal Property - Describe (MISC)	1500		
Other Assets - Describe		TOTAL LIABILITIES	280,550
		NET WORTH	134,100
TOTAL ASSETS	444,650	TOTAL	444,650 -

SCHEDULE 1 NOTES AND CONTRACTS RECEIVABLE

Debtor	Collateral	Amount Due In One Year	Amount Due Over One Year	Terms
CITIZENS BANK	NOTE		14,500	BUILDING PERMIT 622 PLMD
POSSESSORY ESTATE OFFICE	D/ TRUST		149,000	" " 349 PLMD
TOTAL				

SCHEDULE 2 CONTRACTS PAYABLE

Creditor	Collateral	Amount Due In One Year	Amount Due Over One Year	Terms
WESTMEYER CO.	AUTOMOBILE		6500	345
TOTAL				

SCHEDULE 3 REAL ESTATE OWNED

Location	Improvements	In Whose Name is Title Held	Value of Land and Improvements	Amount of Mortgages	Mortgagor	When Due
13748 MANNING WAY	RESIDENCE	MEZLOCK	225,000	23,000	BANK AMERICA	674 -
1358 S. 1ST	FENTAL		40,000			0
920 LEON DR. (1/3)	OFFICE (1/3)	LANDMARK	450,000	110,000	REUNO	BUILDING PERMIT
804 LILAC	MANUFACT. HM.	MEZLOCK	55,000	55,000	SEVER. FIN	770
TOTAL			320,150	211,000		

Are your State and Federal income taxes paid current? Yes ☒ No ☐

Are your Real Estate taxes paid current? ☒ Yes ☐ No

Are you a co-maker, endorser or guarantor on any loan or contract? Yes ☒ No ☐ If "Yes" for whom? LANDMARK BUILDING

To Whom?

Are there any unsatisfied judgements against you? Yes ☐ No ☒ Amount \$

If "Yes" to whom owed?

Have you declared bankruptcy in the last 14 years? Yes ☐ No ☒ If "Yes" Where

For what reason? Year

NOTICE OF RIGHT TO APPRAISAL In the event you have applied for a loan that might or will be secured by residential real property, you have the right to a copy of the appraisal report used in connection with your application for credit. If you would like a copy, please write to us at the office from which you obtained this request. In order to comply with your request, please provide us with the following information: Name used on this application for credit, your complete address your phone number and your application or loan number, if known. If you wish a copy, you must notify us no later than 90 days after we notify you about the action taken on your credit application or 90 days from the date you withdraw your request.

This is to advise you that the sole purpose of the appraisal is to establish the adequacy of the property as security for the loan. The Bank of Commerce the appraiser, any inspector retained by The Bank of Commerce, and any Agency insuring the loan make no representation or warranties of any kind or nature as to the market value of the property or its improvements.

SOURCES OF INCOME	REFERENCES AND REMARKS
TOTAL	

Everything I have stated in this application is correct to the best of my knowledge. I understand that The Bank of Commerce will retain this application whether or not the loan is approved. The Bank of Commerce is authorized to check my credit and employment history and to review prior credit history with The Bank of Commerce and other credit reporting agencies as needed. I have read and understand the application form and agree to provide any additional information which may be legally required to determine creditworthiness. (NOTE: Falsification of credit information to a bank may be a federal offense and may result in exemption from discharge in the event a petition for bankruptcy is filed.)

Signed this 15 day of January 2003

Signature John Meunier

Signature



National® Brand

45-605

Eye-Ease®

45-305

2-Pack

Made in USA

JOHN / KATHA MERRILL

PROFIT/LOSS 2001

Prepared By

Approved By

Initials

Date

#		1	2	3	4	5
1	1	KENNER INCOME	12000			
2	2	MANUAL BUILDING	5479			
3	3					
4	4					
5	5	NET APPROX. INCOME	49745			
6	6	RENTS	3480			
7	7	KENNER'S INCOME (PO)	24240			
8	8	CU LOAN	12500			
9	9					
10	10					
11	11					
12	12					
13	13					
14	14					
15	15	TOTAL INCOME	107444	107444		
16	16	EXPENSES				
17	17	RE PAYMENTS (BANK)		7764		
18	18	(PES) ST. VINCENT		6588		
19	19	HOME		10392		
20	20	RE TAXES		4140		
21	21	INCOME TAXES (EXTENSION)		1500		
22	22	FED INCOME TAXES		2869		
23	23	SOCIAL SECURITY		1503		
24	24	MEDICARE		351		
25	25					
26	26	BUSINESS				
27	27	OFFICE EXPENSES		5844		
28	28	DUES EDUCATION		2105		
29	29	AUTOMOBILE (Purchase)		12450		
30	30	AUTOMOBILE EXPENSES		7245		
31	31	LOCAL TAXES		1720		
32	32					
33	33					
34	34					
35	35					
36	36					
37	37					
38	38					
39	39	CHURCH/CHARITABLE		11250		
40	40	TOTAL EXPENSES		113456		
		(NET LOSS)				

ALSO ADMITTED IN UTAH
BRENDON C. TAYLOR
THOMAS J. LYONS
THOMAS W. CLARK
KENT L. HAWKINS
DAVID E. NAY
D. RUSSELL WIGHT
STEPHEN S. DUNN
DAVE H. GALLAGHER
WESTLEY F. MERRILL (RETIRED)
R. D. MERRILL (1993-1972)
A. L. MERRILL (1986-1981)

POCATELLO, ID 83204-0991

P.O. BOX 991

108 NORTH ARTHUR - 5TH FLOOR

COUNSELLORS AND ATTORNEYS AT LAW

MERRILL & MERRILL
CHARTERED
92718
31176MERRILL & MERRILL
CHARTERED
92718
31176

CHURCH/CHARITABLE

(NET LOSS)

(5712)



National® Brand

45-805

Eye-Ease®

45-305

2-Pack

Made in USA

JOHN / KIRNA MERRILL
PROFIT (LOSS), 2002

Prepared By	Initials	Date
Approved By		

#	INCOME				
1	1	KEUER WILLIAMS	2358		
2	2	LANDMARK BUILDING	6488		
3	3	NET ADDED INCOME	547685		
4	4	RENTS	3480		
5	5	KIRNA INCOME	28354-		
6	6				
7	7				
8	8				
9	9				
10	10	TOTAL INCOME	96445-		
11	11	EXPENSES			
12	12	REPM (BANK)	7164-		
13	13	(PES) ST VINCENT	6588		
14	14	HOME / BANK AMERICA	10665		
15	15	RE TAXES	- 0 -		
16	16	INCOME TAXED (KIRNA)	1500-		
17	17	FEDERAL INCOME TAXES	3165-		
18	18	SOCIAL SECURITY	1758-		
19	19	MEDICARE	411-		
20	20				
21	21				
22	22				
23	23				
24	24				
25	25				
26	26	BUSINESS			
27	27	OFFICE EXPENSES	5464		
28	28	DUES / EDUCATION	1675		
29	29	AUTOMOBILE EXPENSES	6271		
30	30	LEGAL FEES	6855		
31	31				
32	32				
33	33				
34	34				
35	35				
36	36	HOUSEHOLD EXPENSES			
37	37	PHONE	3674		
38	38	EXPENSES, MEDICAL, ETC	9280		
39	39	CHURCH / CHARITABLE	9280		
40	40	TOTAL EXPENSES	38540		

#	INCOME				
1	1	RELLER WILLIAMS	2358		
2	2	LANDMARK BUILDING	6488		
3	3	NET ADVERTISING INCOME	54765	11,245 (unrecovered amount)	
4	4	RENTS	3480		
5	5	KARAN INCOME	28394		
6	6				
7	7				
8	8				
9	9				
10	10	TOTAL INCOME	96445		
11	11	EXPENSES			
12	12	RENT (BANK)	7164		
13	13	(PES) STU WIGENT	6583		
14	14	HOME / BANK AMERICA	10665		
15	15	RE TAXES	0		
16	16	INCOME TAXED (EST)	1500		
17	17	FEDERAL INCOME TAXES	3165		
18	18	SOCIAL SECURITY	1753		
19	19	MEDICARE	411		
20	20				
21	21				
22	22				
23	23				
24	24				
25	25				
26	26	BUSINESS			
27	27	OFFICE EXPENSES	5464		
28	28	DOGS / EDUCATION	1675		
29	29	AUTOMOBILE EXPENSES	6081		
30	30	LEGAL FEES	6835		
31	31				
32	32				
33	33				
34	34				
35	35				
36	36	HOUSEHOLD EXPENSES			
37	37	UTILITIES	3684		
38	38	EXPENSES, MEDICAL, ETC	24440		
39	39	CAUTION / CHARITABLE	9280		
40	40	TOTAL EXPENSES	37140		
		NET PROFIT	6905	(23,385) (unrecovered amount)	

A. L. MERRILL (1886-1961)
R. D. MERRILL (1893-1972)
WESLEY F. MERRILL (RETIRED)
DAVE R. GALLAFENT
STEPHEN S. DUNN
D. RUSSELL WIGHT
DAVID C. NYE*
KENT L. HAWKINS*
THOMAS W. CLARK
THOMAS J. LYONS
BRENDON C. TAYLOR
*ALSO ADMITTED IN UTAH

MERRILL & MERRILL
CHARTERED
COUNSELORS AND ATTORNEYS AT LAW
109 NORTH ARTHUR - 5TH FLOOR
P.O. BOX 991
POCATELLO, ID 83204-0991

TELEPHONE
208-232-2286
TELEFAX
208-232-2499
E-MAIL
MMLAW@MERRILLANDMERRILL.COM

ADPENSIC INCOME

The income for each of the two adjacent money
supply and money 2 power who were also licensed
appreciation.

Thompson and others are both now working at
the residential in college. Mr. Thompson and his wife
Dennis have both worked in the office the past
4 years. Dennis and his wife have now had
with me the past 4 years, however they are
now living in New York, New York. As we he as an
oppressor and is getting a number of others. He
would and have to work with me on the business.

1997 Appraisals

Page 25:
\$7,870

Page 26:
\$6,725

Page 27:
\$9,940

Page 28:
\$7,390

Page 29:
\$7,805

Page 30:
\$10,382

Page 31:
Blank

Page 32:
\$13,107.50

Page 33:
Blank

Page 34:
\$8,415

Page 35:
Blank

Page 36:
\$9,075

1997 TOTAL: \$80,709.50

- 8474.00

NET \$72,235

RENTS, OVERCHARGE, COLLECTIONS

INCOME WAS DIVIDED BETWEEN JOHN

BROWN MERZLACK

JOHN
\$48,036

MATTHEW
\$650

BROWN
\$17,697

1998 Appraisals

Page 37:
\$11,442

Page 38:
\$11,671.50

Page 39:
\$13,005

Page 40:
\$11,250

Page 41:
\$10,020

Page 42:
\$10,360

Page 43:
\$11,425

Page 44:
\$9,900

Page 45:
\$12,140

Page 46:
\$9,685

Page 47:
\$8,970

Page 48:
\$10,525

Page 49:
\$8,530

Page 50:
\$1,860

1998 TOTAL: \$140,783.50

NET:

123,889

INCOME WAS DIVIDED BETWEEN JOAN MATHIEW
AND BRENN MERZLOK

JOAN
\$ 76,810

MATTHEW
\$ 28,194

BRENN
\$ 18,584

1999 Appraisals

Page 51:
\$9,705

Page 52:
\$10,805

Page 53:
\$11,850

Page 54:
\$10,375

Page 55:
\$9,965

Page 56:
\$9,370

Page 57:
\$10,830

Page 58:
\$9,897.50

Page 59:
\$11,730

Page 60:
\$2,155

1999 TOTAL: \$96,682.50

\$705.11
87,982

INCOME WAS DIVIDED BETWEEN JOHN, MATTHEW,
E BOWEN MERZLOCK

JOHN
APPR # 58,508

MATTHEW
20,795

BRAD
8680

2002 Appraisals

Page 83:
\$10,010

Page 84:
\$10,510

Page 85:
\$9,830

Page 86:
\$9,535

Page 87:
\$10,425

Page 88:
\$11,090

Page 89:
\$10,955

Page 90:
\$11,160

Page 91:
\$9,600

Page 92:
\$9,595

Page 93:
\$10,365

Page 94:
\$8,190

Page 95:
\$10,835

Page 96:
\$7,530

Page 97:
\$3,190

2002 Total: \$142,820

NET \$ 128,890

OVERPAYMENT, RETURNED CHECKS, ETC
JOHN MERTLOFF
\$76,245

MATTHEW REMF
\$42,225

ERIN MERTLOFF
\$15,420



Department of the Treasury
Internal Revenue Service

OGDEN, UT 84201

C

8401

CP-531

0000142

200139

DATE OF THIS NOTICE: OCT. 29, 2001
TAXPAYER IDENTIFYING NUMBER: 519-52-2043
TAX YEAR ENDED: 12-31-1998

FOR ASSISTANCE YOU MAY CALL US AT:

1-800-829-8815

OR WRITE:

CHIEF, COLLECTION BRANCH
INTERNAL REVENUE SERVICE
OGDEN, UT 84201

JOHN L MERGLOCK JR
13748 MANNING LN
POCATELLO ID 83202-5120485

YOU COULD BE SUBJECT TO BACKUP WITHHOLDING

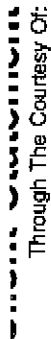
WE RECENTLY SENT YOU A NOTICE REQUESTING YOUR TAX RETURN OR ADDITIONAL TAXES OWED. WE DID THIS BECAUSE OUR RECORDS SHOW THAT YOU EITHER:

1. DIDN'T REPORT ALL YOUR INTEREST AND DIVIDENDS ON YOUR FEDERAL INCOME TAX RETURN; OR
2. DIDN'T PAY THE TAX ON THIS INCOME.

IF YOU'VE ALREADY FILED YOUR RETURN OR PAID ALL TAXES DUE, PLEASE DISREGARD THIS NOTICE. YOU DON'T NEED TO DO ANYTHING MORE.

IF YOU HAVEN'T FILED YOUR RETURN OR PAID ALL TAXES DUE, YOU COULD BECOME SUBJECT TO BACKUP WITHHOLDING. THIS MEANS IRS WILL NOTIFY YOUR PAYERS (BANKS, ETC.) TO WITHHOLD 30.5% OF THE PAYMENTS YOU RECEIVE FOR DIVIDENDS AND INTEREST. THE PAYERS WILL SEND THE MONEY TO IRS AND YOU MAY CLAIM IT AS A WITHHOLDING CREDIT ON YOUR FEDERAL INCOME TAX RETURN.

TO AVOID BACKUP WITHHOLDING, PLEASE ANSWER OUR EARLIER NOTICE. IF YOU DON'T HAVE IT, YOU WILL RECEIVE ANOTHER ONE SOON. PLEASE SEND THE TEAR-OFF STUB FROM EITHER NOTICE WITH YOUR ANSWER IN THE ENVELOPE WE HAVE PROVIDED. THIS WILL HELP US PROCESS YOUR ANSWER PROMPTLY.



BROKER-DEALER CORP.

Securities Account

For The Period:

October 1 - December 31, 2001

Account Number:
LKA-021132-CB

Page 1 of 3

Total Account Net Worth

Cash Balance

OPENING
\$411.50

CLOSING
\$.00

Your Account Executive:

CARLETON M BOOTHE
CONTINENTAL BROKER DEALER CORP
1515 SOUTH FEDERAL HIGHWAY
BOCA RATON FL 33432

Phone: 561-417-0028

Total Net Worth

\$411.50

\$.00

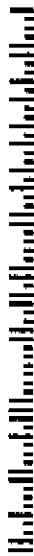
Income & Distributions

MEMPHIS

EAR TO DATE

JOHN L MERZLOCK
920 DEON DR
POCATELLO

ID A3201-3069



Total Income

\$0.00

\$0.00

Cash Activity Highlights

**DO NOT SEE
THIS VIDEO**

EXP. DATE

Opening Cash & Fund Balance

\$411.50

Funds Added

\$200.00

Funds Withdrawn

00
00
94

Miscellaneous

(\$411.50)

Closing Cash & Fund Balance

00.5
(00-144)

63B C022 002631 006279 0283712 2002002 0
JOHN L MERZLOCK
PO BOX 2559
POCATELLO ID 83208-2559

Acct # Period Page
20219465 12/01/01 - 12/31/01 1 of 2

Office # Rep #
63B C022

Rep Name
CARLETON BOOTHE

Duplicate Statement for the Account of:
JOHN L. MERZLOCK
920 DEON DR
POCATELLO, ID 83201-3069

Account Value Summary

Investment Allocation
December 31, 2001

Description	This Statement	%	Last Statement	%
Cash and Equivalents	\$411.95	100	N/A	
Total Assets	\$411.95	100		
Account Value	\$411.95			

Net Change 100.0% Increase

Cash / Equiv.



Earnings Summary

Description	This Period	Year-To-Date
Taxable Income		
Money Market Dividends	\$0.45	\$0.45
Total Taxable Income	\$0.45	\$0.45

Description	This Period	Year-To-Date
Total Income	\$0.45	\$0.45
Net Total	\$0.45	\$0.45

Account Activity Summary

Description	This Period
Debits	
Withdrawals	\$0.00
Dividend and Interest Charged	0.00
Sweep Activity - Purchases	
PRIME CASH SERIES	411.95
Total	\$411.95

Description	This Period
Credits	
Deposits	\$411.50
Dividend/Interest/Principal Payment	0.45
Sweep Activity - Redemptions	0.00
PRIME CASH SERIES	
Total	\$411.95

BNY Clearing Services LLC
P.O. Box 634, Milwaukee, WI 53201
(414) 225-4100
I.D. No. 99-1939036

BNY
CLEARING
SERVICES LLC
A BANK OF NEW YORK COMPANY

Tax Statement

2001 TAX REPORTING INFORMATION

TAGLICH BROTHERS, INC.

004394 4394 1

SUB REP	ACCOUNT	PAGE
150 E4A1	1023-0651	1 OF 1
TAXPAYER ID: 519-52-2043		

JOHN MERZLOCK
PO BOX 2559
POCATELLO ID 83206-2559

ACCOUNT EXECUTIVE
MICHAEL & ROBERT TAGLICH
TAGLICH BROTHERS INC
1000 FORT SALONGA ROAD
SUITE 5
NDRTHPORT NY 11768
CONTACT PHONE: (212) 265-4111

THE FOLLOWING IS BEING PROVIDED FOR YOUR INFORMATION ONLY AND WILL NOT BE FURNISHED TO THE INTERNAL REVENUE SERVICE.

THIS SECTION LISTS MISCELLANEOUS INFORMATION WHICH CAN BE HELPFUL IN THE PREPARATION OF YOUR TAX RETURN. IT LISTS NON FEDERALLY REPORTABLE INCOME WHICH MAY OR MAY NOT BE TAXABLE AT THE STATE OR LOCAL LEVEL. PLEASE REVIEW THIS INFORMATION WITH YOUR TAX ADVISOR.

DESCRIPTION	ACTIVITY	AMOUNT	REF #
MARGIN DEBIT INTEREST	MARGIN INTEREST	\$379.64DR	1

REF #	-- TOTALS FOR TAX YEAR 2001	
	MISCELLANEOUS INFORMATION TOTALS	
1.	MARGIN DEBIT INTEREST	\$379.64DR
2.	FEDERALLY TAX EXEMPT MUNICIPAL BONDS	\$0.00
3.	FEDERALLY TAX EXEMPT DIVIDENDS	\$0.00
4.	NOT USED AT THIS TIME.....	\$0.00
5.	INCOME SUBJECT TO ALTERNATIVE MINIMUM TAX	\$0.00
6.	FEDERALLY TAX EXEMPT INTEREST	\$0.00
7.	FEDERALLY TAX EXEMPT ACCRUED INTEREST	\$0.00
8.	NOT USED AT THIS TIME	\$0.00
9.	ACCRUED INTEREST ON PURCHASES.....	\$0.00DR

THIS SECTION CONTAINS PURCHASE ACTIVITY IN YOUR ACCOUNT.
IT IS PROVIDED FOR YOUR INFORMATION ONLY.

DESCRIPTION	DATE	ACTIVITY	QUANTITY	PRICE	AMOUNT
WILLIAMS CONTROLS INC CUSIP: 969465103	07/25/01	PURCHASE	6,000.00000	1.1200	\$6,950.00
WILLIAMS CONTROLS INC CUSIP: 969465103	07/27/01	PURCHASE	4,000.00000	1.0200	\$4,285.00

[illegible]

1-15142

ACCT. TYPE	QUANTITY	DESCRIPTION	SYMBOL	PRICE	ESTIMATED INCOME//YLD	CURRENT VALUE
CASH(1)	180	DYNAMIC AMERICAN CORP NEW	DACQ	NOT AVAILABLE	N/A	N/A
		TOTAL COMMON STOCK/UNITS/OPTIONS				\$.00
		TOTAL EQUITIES				\$.00

JOHN MERZLOCK
SSN 519-52-2043
13748 N. MANNING LN. PH. 237-5173
POCATELLO, ID 83202

3693

Date 4-16-01

32-156/1241
200

Pay to the
Order of IRS

\$ 2000.00

Two thousand dollars & no/100ths



KeyBank National Association
Pocatello, Idaho 83204
1-800-KEY2YOU

For 2000 TAXES

⑆124101555⑆

000379240 3693

Form **4868**
Department of the Treasury
Internal Revenue Service

Application for Automatic Extension of Time To File U.S. Individual Income Tax Return

OMB No. 1545-0188

2000

For calendar year 2000, or other tax year beginning , 2000, ending

Part I Identification	
1 Your name(s) (see instructions) <u>JOHN & KARMA MERZLOCK</u>	
Address (see instructions) <u>13748 MANNING LANE</u> City, town or post office, state, and ZIP code <u>POCATELLO, IDAHO 83202</u>	
2 Your social security number <u>519 52 2043</u>	3 Spouse's social security number <u>519 56 7633</u>

Part III Individual Income Tax	
4 Total tax liability on your income tax return for 2000 \$	<u>4435.88</u>
5 Total 2000 payments	<u>2135.88</u>
6 Balance. Subtract 5 from 4	<u>2000.00</u>

Part IV Gift/GST Tax—If you are not filing a gift or GST tax return, go to Part V now. See the instructions.

7 Your gift or GST tax payment \$	
8 Your spouse's gift/GST tax payment	

Part II Caution: Only for gift/GST tax extension! Checking box(es) may result in correspondence if Form 709 or 709-A is not filed.

This form also extends the time for filing a gift or generation-skipping transfer (GST) tax return if you file a calendar (not fiscal) year income tax return. Enter your gift or GST tax payment(s) in Part IV and:

- Check this box ☐ if you are requesting a **Gift or GST tax return extension.**
Check this box ☐ if your spouse is requesting a **Gift or GST tax return extension.**

Part V Total	
9 Total liability. Add lines 6, 7, and 8 \$	<u>2000</u>
10 Amount you are paying	<u>2000</u>

Confirmation Number
If you file electronically, you will receive a confirmation number telling you that your Form 4868 has been accepted. Enter the confirmation number here and keep it for your records.

For Privacy Act and Paperwork Reduction Act Notice, see page 4.

Cat. No. 13141W

Form **4868** (2000)

MERRILL & MERRILL
109 NORTH ARTHUR - 5TH FLOOR
P.O. BOX 981
POCATELLO, ID 83204-0991
TELEPHONE 208-232-2286
TELEFAX 208-232-2499
E-MAIL MMLAW@MERRILLANDMERRILL.COM

MERRILL & MERRILL
CHARTERED
COUNSELORS AND ATTORNEYS AT LAW
109 NORTH ARTHUR - 5TH FLOOR
P.O. BOX 981
POCATELLO, ID 83204-0991

A.L. MERRILL (1886-1961)
R.D. MERRILL (1893-1972)
WESLEY F. MERRILL (RETIRED)
DAVE R. GALLAFENT
STEPHEN S. DUNN
D. RUSSELL WIGHT
DAVID C. NYE
KENT L. HAWKINS
THOMAS W. CLARK
THOMAS J. LYONS
BRENDON C. TAYLOR
ALSO ADMITTED IN UTAH

Form 1099-MISC

g VOID

g CORRECTED

PAYER'S name, street address, city, state, ZIP code, and telephone no. COLDWELL BANKER LANDMARK P O BOX 2559 POCATELLO ID 83206		1 Rents \$	OMB No. 1545-0115 1998 Form 1099-MISC	Miscellaneous Income SS-1908647 Department of Treasury - IRS
		2 Royalties \$		
		3 Other income \$		
PAYER'S Federal identification number 82-0309870	RECIPIENT'S identification number 519-52-2043	4 Federal income tax withheld \$	5 Fishing boat proceeds \$	Copy C For Payer For Paperwork Reduction Act Notice and Instructions for completing this form, see the 1998 Instructions for Forms 1099, 1098, 5498, and W-2G.
RECIPIENT'S name, address, and ZIP code JOHN MERZLOCK 13748 MANNING LN POCATELLO ID 83202		6 Medical & health care pymts. \$	7 Nonemployee compensation \$ 4032.74	
		8 Substitute payments in lieu of dividends or interest \$	9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale j g	
		10 Crop insurance proceeds \$	11 State income tax withheld \$	
Account number (optional)	2nd TIN Net. <input type="checkbox"/>	12 State/Payer's state number ID	13 \$	

☐ VOID ☐ CORRECTED

PAYER'S name, street address, city, state, ZIP code, and telephone no. COLDWELL BANKER LANDMARK P O BOX 2559 POCATELLO ID 83206		1 Rents \$ 2 Royalties \$ 3 Other income \$	OMB No. 1545-0115 1997 Form 1099-MISC	Miscellaneous Income Copy C For Payer For Paperwork Reduction Act Notice and instructions for completing this form, see Instructions for Forms 1099, 1098, 5498, and W-2G.
PAYER'S Federal identification number 82-0309870	RECIPIENT'S identification number 519-52-2043	4 Federal income tax withheld \$	5 Fishing boat proceeds \$	
RECIPIENT'S name, street address, city, state, and ZIP code JOHN MERZLOCK 13748 MANNING LN POCATELLO ID 83202		6 Medical and health care pay. \$	7 Nonemployee compensation \$ 20305.88	
Account number (optional)		8 Substitute payments in lieu of dividends or interest \$	9 Payer made direct sales of \$5,000 or more of consumer products to a buyer (recipient) for resale <input type="checkbox"/>	
2nd TIN Not <input type="checkbox"/>		10 Crop insurance proceeds \$	11 State income tax withheld \$	
		12 State/Payer's state number ID	13 \$	

Form 1099-MISC

Department of the Treasury - Internal Revenue Service

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A. Okay.

Q. And what it is that you know. And if at any time you feel that the questions are unclear, would you please let me know?

A. I will.

Q. And of course you shook your head the one time without making an audible response, there is a natural tendency to do that at times. Please make sure that the answers are verbal so that the court reporter can pick that up and we can get done with what we need to.

Now, it looks like you have brought a file here this morning or at least some documents.

A. Some documents relating to the case.

Q. What is it that you brought?

A. Just my personal file.

Q. So you did have a personal file in this case?

A. Well, I have kept a record of it, yes.

Q. Is that something that's been disclosed to us?

MR. NYE: I believe that he is talking about a file created after litigation.

Q. Let me try to summarize this to make sure I know where we are at. At Kelly Fisher's deposition, he provided us two files, one on the Mountain Park property and one on the Manning Lane property. Are there any other personal folders or files that you are aware of

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that deal with this case that were created prior to the beginning of this litigation?

A. No.

Q. When did you start creating your file?

A. Well, I started creating my file at the time, and you can see that most of it has to do with the litigation itself. In fact the bulk of the file is litigation material, all the way through, so that was where my original files began and notes on the proceedings.

(Todd Bohn enters the deposition room.)

Q. In preparation for your deposition here this morning, what information have you reviewed, if any?

A. It's a nebulous question. I think you review everything. I don't know what you are leading to, but I have reviewed our experience in this transaction regarding the arbitration and regarding the preparation for trial on it.

Q. So you reviewed the two files that we have earlier discussed, the ones that Kelly Fisher had?

A. I haven't reviewed the ones that Kelly Fisher had prior to today; I reviewed them prior to arbitration.

MR. NYE: Mediation.

A. Mediation, okay.

Q. So you did review them prior to the mediation.

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A. Yes.

Q. And within this file that you have here are there any personal notes that you have made that were made that were not created at the request of your attorney?

A. Well, I have personal notes that I recollect from certain conversations where certain things were said that I don't agree with.

Q. Go ahead.

A. Those are comments that I have made personally myself, which is natural, there is nothing there that is adverse or hasn't been discovered or would be substantial to anyone.

Q. Have you reviewed those notes in preparation for today's testimony?

A. Well, somewhat.

Q. I'll get to that a little bit later, but I want to make sure that we are thorough, of course, and that we get what we are here to do. Did you bring any other documents that were requested in the subpoena relating to this matter?

A. No.

Q. Why not?

A. I don't have them prepared.

MR. NYE: Are you talking about in the notice

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of deposition, those documents?

Q. Yes, the notice of deposition duces tecum that basically had a subpoena attached to it that asked you to bring records today, correct?

A. That's correct.

MR. NYE: Just a minute. There was no subpoena attached to it. We are not saying we are not going to provide the documents, but there was no subpoena attached to the notice of deposition.

MR. RAMMELL: Well, did not the notice have various items that were requested as part of that?

MR. NYE: Yes.

Q. (By Mr. Rammell.) Do you know when you plan to have that information available?

A. I expect to have it probably by the first of the year.

MR. NYE: Let me interject here. The tax records that were requested, there is an ongoing dispute with his stockbroker regarding some financial information. There has not been taxes filed for four years. So there is no tax return to provide at this point in time.

MR. HAWKES: Which entity hasn't had returns, Dave?

MR. NYE: John has not had returns filed.

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1 MR. HAWKES: Personal?
2 MR. NYE: Yes.
3 MR. HAWKES: So we are dealing on extensions --
4 MR. NYE: There are extensions, yes, with the
5 IRS.
6 Q. (By Mr. Rammell.) Just so I am clear on it,
7 then, we are talking about your personal financial
8 records and tax returns.
9 A. Right.
10 Q. And who is your accountant?
11 A. I have a lady named Kathy Christensen who is
12 working on them.
13 Q. Where does she work?
14 A. She is an independent tax preparer.
15 Q. Here in town?
16 A. Yes.
17 Q. So this would go back to '98. Did you file
18 '98's return?
19 A. You know, I don't recall until I check with
20 her.
21 Q. Do you believe it was prior to '98 that you
22 stopped filing?
23 A. Our dispute was about 1997. We had a tax
24 accountant or tax preparer by the name of Albert Clark
25 who had my records. Albert had moved to Wyoming and

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1 passed away during 1998 and we were not able to retrieve
2 the records and we had a question with a stockbroker
3 about proceeds, and that's the reason why we filed
4 extensions instead of the whole return.
5 Q. Has the IRS taken the position that you are
6 delinquent on your taxes?
7 A. Oh, yes.
8 Q. Have you been sued or been into a tax court?
9 A. No.
10 Q. And what's the status of that, are you
11 litigating that right now?
12 A. We are waiting for the information to come, and
13 then we will go ahead and file all of those returns as
14 soon as we have the information from the stockbroker.
15 Q. Is that the only thing that's keeping you from
16 filing your tax returns?
17 A. Yes.
18 Q. Do you have W-2s for -- let's take the years
19 '97 through this year.
20 A. Yes.
21 Q. When can you provide those to me?
22 A. I think we could retrieve them and provide them
23 to you within the next ten days.
24 MR. NYE: Who has them?
25 THE WITNESS: I suppose I probably would have

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1 them, have copies of them.
2 MR. NYE: Bron, if he has copies of them, we
3 will retrieve them and get them to you sooner than ten
4 days.
5 MR. RAMMELL: Thank you.
6 Q. I am sure you can appreciate it's been some
7 time since we have asked for the information, and I am
8 not sure exactly the date that we did that, but it's been
9 some time back. I am not trying to be contentious, but
10 at the same time would you commit to me today to try to
11 use due diligence to try to get me the information that
12 we have requested, the financial information?
13 A. Yes, I will.
14 Q. Thank you.
15 MR. HAWKES: And, Dave, if you could get us
16 what's available rather than wait until it's complete, we
17 would appreciate taking it as it's found.
18 MR. NYE: My understanding is the only thing
19 available is the W-2s, but I'll talk more with John on
20 that.
21 Q. Let's explore that just for a second, if I may.
22 Do you have any other records other than the W-2s, such
23 as expense vouchers and receipts that you would have that
24 would be relevant to this?
25 A. Well, we have some that we have not retrieved

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1 from Mr. Clark. I have some that would be with Mrs.
2 Christensen. Yes, there are others. They are not in the
3 same location where I could go out today and put my hand
4 on them without notice.
5 Q. But you could ask Mrs. Christensen for those
6 documents?
7 A. Yes.
8 Q. And how long would it take for her to get those
9 for you, do you think?
10 A. I think we could within three to five days.
11 Q. Tell me a little bit about your background and
12 experience, if you would. Let's start with your
13 education.
14 A. I have a B.A. in business from Idaho State
15 University.
16 Q. When?
17 A. In 1971. I have had various real estate and
18 appraisal classes throughout my career during the past 30
19 years. They would be too numerous to go back and try to
20 mention except that I have tried to continue with my
21 education as required for licensing procedure and also at
22 my own option. I guess that would answer your question.
23 I'm not sure what else you would be looking for there.
24 Q. When did you first acquire your real estate
25 license?

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1 Q. And I am talking about in particular here, I'm
2 talking about financial documents.
3 A. Okay.
4 Q. And I just want to know where I can go to find
5 out how much business Landmark Real Estate did in 1997.
6 A. I would expect from the tax documents, we would
7 have a filing on that, profit and loss statement.
8 Q. Are there any associations or I guess let's
9 call it awards that you get by doing a high volume of
10 real estate transactions?
11 A. There are individual awards for individual
12 performance, but I don't know of any that -- we haven't
13 received any in particular for the office that I know of.
14 Q. Do they distinguish agents and brokers by the
15 amount of volume that they do within a given year?
16 A. Well, it can be for anything, it can be
17 referrals, volume, number of listings.
18 Q. Is there a specific award, however, for volume?
19 A. There was at Coldwell Banker. I don't know
20 that there is for Keller Williams.
21 Q. In 1997 did you or Todd Bohn receive any awards
22 for volume of business?
23 A. I didn't. I don't know whether Todd did. Most
24 of my practice is related to the appraisal business, and
25 so I am involved in the real estate business on a limited

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1 basis.
2 Q. Is there a club like a million dollar club or
3 something to that effect?
4 A. Yes.
5 Q. Has anyone at Coldwell Banker achieved that?
6 A. They have.
7 Q. Has Todd Bohn ever achieved that?
8 A. I don't know that.
9 Q. Have you ever achieved that?
10 A. I have.
11 Q. When was the last time you achieved that?
12 A. I can't tell you, 1994, '95; in the mid '90s.
13 Q. Do you pride yourself on coming relatively
14 close and staying within that ballpark throughout your
15 period of time as a real estate agent and broker?
16 MR. NYE: Objection, vague and ambiguous.
17 A. I haven't recently, in the last eight to ten
18 years, because I have been more involved with the
19 appraisal end of things than I have with the brokerage.
20 Q. How much money did you take in in commissions
21 and your appraisal business in the year 2000? I'm
22 talking about you personally.
23 A. Again, I don't remember; I don't remember.
24 Q. Would that be found on your W-2s?
25 A. Yes.

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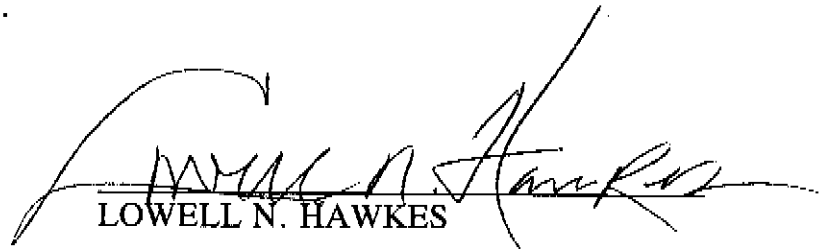
1 Q. Are those W-2s complete and accurate, no other
2 income or moneys that you would receive other than what
3 would be disclosed in those documents?
4 MR. NYE: Are you saying income from the sale
5 of homes or --
6 MR. RAMMELL: Any income.
7 A. Well, I think in 2002 we sold a parcel of
8 property and, as I say, I haven't filed that with the W-2
9 because the W-2 doesn't relate to that. You know, there
10 are various properties from time to time that we do sell
11 that I would have to document, but they aren't included
12 in the W-2 forms.
13 Q. Do you have any idea roughly how much money you
14 made in 1997?
15 A. I would estimate probably 75 to \$80,000.
16 Q. Is that what then would have been disclosed in
17 your tax returns?
18 A. Oh, we estimated it at that, so that would be
19 what we would represent on the tax returns when they are
20 filed.
21 Q. Thank you, that was actually going to be my
22 next question, if you have submitted some estimated tax
23 returns.
24 A. Yes.
25 Q. Can you get those to me within the next few

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1 days?
2 A. Yes.
3 Q. Is it an uncommon practice for a real estate
4 company to buy a home under circumstances where a
5 transaction has gone bad?
6 MR. NYE: I object to the form of the question
7 as vague and ambiguous.
8 A. Our company has had a policy not to buy homes.
9 Q. Have you done it before?
10 A. Personally.
11 Q. You have?
12 A. Yes.
13 Q. How many times?
14 A. I don't recall.
15 Q. This was another document that came in as part
16 of Fisher Deposition Exhibit A. Would you look at that,
17 please.
18 A. Okay.
19 Q. Do you recognize what that is?
20 A. I don't know what that is.
21 Q. Does it appear to be a division of commissions
22 in this case, at least a part of them?
23 A. It could be, I don't know.
24 Q. You are not sure?
25 A. I'm not sure what it is. I don't know where it

CERTIFICATE OF SERVICE

I hereby certify that on this 21st day of November, 2003 I served a copy of the foregoing upon David E. Rayborn (Attorney for Debtor), P.O. Box 1, Pocatello, ID 83204 (by first class mailing); Norman G. Reece, Jr. (Attorney for Scheis), 151 North 3rd Avenue, Pocatello, ID 83201 (by fax to 233-4895); L.D. Fitzgerald (Trustee), P.O. Box 6199, Pocatello, ID 83205 (via fax to 233-1339); Office of the U.S. Trustee, 304 North 8th Street, Suite 347, Boise, ID 83702 (via fax to 208-334-9756); and Craig W. Christensen (Attorney for Citizens Community Bank), P.O. Box 130, Pocatello, ID 83204-0130 (via fax to 234-9357).


LOWELL N. HAWKES